

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/042,371 Confirmation No.: 6761
Applicant: Andrew C. Gilbert (deceased)
Title: CREATING AND TRADING DYNAMIC SECURITIES
Filed: December 27, 2001
Art Unit: 3692
Examiner: Chuks N. Onyezia

Atty. Docket: 01-1046
Customer No. 63710

REQUEST FOR COMPLETION OF OFFICE ACTION PURSUANT TO MPEP § 710.06

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to MPEP § 710.06, Applicant calls to the attention of the Office an error in the Office's paper of April 4, 2007, and requests that the Office reissue the paper in corrected and completed form.

710.06 Situations When Reply Period Is Reset or Restarted [R-3]

Where ... an Office action contains some other error that affects applicant's ability to reply to the Office action ... If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected.

...

A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs.

The Examiner's position is not made clear in the April 2007 paper with respect to the Barron's Dictionary definition provided in Applicant's paper of April 7, 2007. Because the April 2007 paper does not compare the prior art to the cny claim, as the claims must be interpreted in light of the dictionary definition provided in the April 2007 paper, it is not clear what

consideration was given to that dictionary definition, let alone what the current basis of any rejection may be. Applicant cannot reply until the following are made clear:

1. Does the Examiner accept that “target” is a claim term with meaning that may not be simply disregarded, and that the phrase “pre-determined target price” means something different than merely “pre-determined price?”
2. Does the Examiner accept that a definition supported by substantial evidence, such as a dictionary, controls over any personal impression, or any definition not supported by substantial evidence? The Examiner’s attention is drawn to MPEP §§ 2111 and 2111.01(III) (“Dictionary definitions [may be] used to determine the ordinary and customary meaning of [claim words] to those skilled in the art.”)
3. If the Examiner does not accept that dictionaries control over personal impression, the Examiner is requested to identify any written guideline that permits personal impression to be relied on in preference to a technical dictionary.
4. Does the Examiner accept or reject the notion that the definition of “target price” as used in context of the claims reflects some element of subjective “desire?” For the Examiner’s convenience, the relevant definitions from the Barron’s Dictionary of Finance and Investment Terms are set forth here:¹

TARGET PRICE

Finance: Price at which an acquirer aims to buy a company in a TAKEOVER.

Stocks: price that an investor is hoping a stock he or she has just bought will rise to within a specified period of time ...

5. If not, why not?
6. If so, what disclosure of Pritchard ’154 corresponds to the prospective “hope” or “desire” that is embedded in the claim term “target price?”
7. How does the language “two or more of the categories” in claim 13 relate to Pritchard ’154? Does Pritchard ’154 teach that different investment trusts contain different classes of assets from among the categories listed in claim 13, or does Pritchard ’154 teach a single investment trust that has multiple asset categories? If so, where?
8. How does the claim language “comparing the rate of return ... to a pre-determined target rate of return; and trading the asset ... based on the comparing” compare to Pritchard ’154? What is “compared” in Pritchard ’154? Where does Pritchard ’154 “trade the asset” based on this “comparing?”

Applicant requests a correction and completion of the Office Action, and resetting of the time to reply. If no rejection can be framed within the requirements of the MPEP and the above

¹ The term “target price” as used in options is not relevant. An option “target price” is usually set by the options exchange, not chosen by the party who owns the option.

questions, Applicant requests that the application be passed to issue in due course. The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for that extension of time required to make this reply timely. Kindly charge any additional fee, or credit any surplus, to Deposit Account No. 50-3938, Order No. 01-1046.

Respectfully submitted,

Dated: June 4, 2007

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